

## WORKFORCE DEVELOPMENT DEPARTMENT[871]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 22, “Employer Records and Reports,” Chapter 24, “Claims and Benefits,” and Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

These proposed amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were enacted. The agency needs to have administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before May 2, 2017, to David J. Steen, Attorney, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [david.steen@iwd.iowa.gov](mailto:david.steen@iwd.iowa.gov).

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend subrule 22.1(3) as follows:

**22.1(3)** Such payroll records may be preserved by the employer in ~~microfilm form~~ an electronic format, provided the employer: is willing to provide access to such records as may be required by the department.

~~a. Keeps a microfilm viewer available, and~~

~~b. Is willing to transcribe any information that may be required by the department.~~

ITEM 2. Amend rule 871—22.3(96), catchwords, as follows:

**871—22.3(96) Filing of Employer’s Contribution and Payroll Report, 65-5300 and Employer’s Payroll Continuation Sheet, 60-0103.**

ITEM 3. Amend rule 871—22.16(96) as follows:

**871—22.16(96) Transmittal Electronic transmittal of contribution payments.**

**22.16(1) Effect of postmark date.** An employing unit or person acting on behalf of one or more employing units must transmit payment of contributions to the department electronically.

~~a. When the due date for filing reports and paying contributions falls on Saturday, Sunday or a legal holiday it is sufficient compliance with the law if reports and contributions are postmarked on or before midnight of the next succeeding business day following such Saturday, Sunday or legal holiday.~~

~~b. Contributions, if mailed, shall be deemed to have been paid on the date of mailing as indicated by the postmark on the cover thereof. If no postmark date on the cover, the date received by the department shall be deemed date of payment.~~

**22.16(2) Reserved.** Once an employing unit transmits payment of contributions to the department electronically, the employing unit must submit all subsequent payments of contributions to the department electronically.

This rule is intended to implement Iowa Code sections 96.7(1) and 96.14(2).

ITEM 4. Amend subrule 24.1(21) as follows:

**24.1(21) Benefit year, individual.** The benefit year is a period of 365 days (366 in a leap year) beginning with and including the starting date of the benefit year. The starting date of the benefit year is always on Sunday and is ~~usually~~ the Sunday of the current week in which the claimant first files a valid claim unless the claim is backdated as allowed under ~~subrule 24.2(1), paragraph “h.”~~ 24.2(1) “h.”

ITEM 5. Amend paragraph **24.2(1)“e”** as follows:

*e.* In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.

~~The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response weekly continued claim will have the benefit payment automatically deposited weekly in the individual’s account at a financial institution or be paid by the mailing of a warrant on a biweekly basis on a selected debit card.~~

In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.

The department retains the ultimate authority to choose the method of reporting and payment.

ITEM 6. Amend paragraph **24.2(1)“g”** as follows:

*g.* No continued claim for benefits shall be allowed until the individual claiming benefits has completed a ~~voice response~~ continued claim or claimed benefits as otherwise directed by the department. The weekly ~~voice response~~ continued claim shall be transmitted not earlier than ~~noon of 8 a.m. on the Sunday following the Saturday of the weekly reporting period and,~~ unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

An individual claiming benefits using the weekly ~~voice~~ continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.

The individual shall set forth the following:

- (1) That the individual continues the claim for benefits;
- (2) That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, was able to work and available for work;
- (3) That the individual indicates the number of employers contacted for work;
- (4) That the individual knows the law provides penalties for false statements in connection with the claim;
- (5) That the individual has reported any job offer received during the period covered by the claim;
- (6) Other information required by the department.

ITEM 7. Amend paragraph **24.2(1)“h”** as follows:

*h.* Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual’s separation from work, an individual ~~reports in person at a workforce development center and registers for work in accordance with paragraph “a” of this rule~~ files a claim for benefits.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

~~Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;~~

~~There is scheduled filing in the following week because of a mass layoff;~~

1. The failure of the department to recognize the expiration of the claimant's previous benefit year;

~~The individual is given incorrect advice by a workforce development employee;~~

2. The claimant filed an interstate claim against another state which has been determined as ineligible;

~~Failure on the part of the employer to comply with the provisions of the law or of these rules;~~

~~Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;~~

~~Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.~~

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of a calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

ITEM 8. Amend subrule 24.17(1) as follows:

**24.17(1)** Employer notice specified vacation or holiday pay only. The Form 65-5317, Notice of Claim, the Form 62-2048, Request for Federal Wage and Separation Information, and the Form 62-2049, Request for Wage and Separation Information on Federal Employment Additional Claim, which are returned by the employer for the purpose of notification of vacation pay, shall be used as notification to the department that vacation pay is applicable. The Forms 65-5317, 62-2048, and the 62-2049 received in the administrative office shall be routed to the appropriate office for the following action:

*a.* Upon receipt of the vacation information, the unemployment insurance representative shall ~~immediately issue the appropriate decision concerning the vacation pay to the employer and to the claimant. The unemployment insurance representative shall then check the current status of the claim on the computer record to ascertain if any weeks have been reported.~~ compare the amount of vacation reported by the employer with the computer record. If the computer record shows any discrepancies with the vacation information provided by the employer that would affect the claimant's eligibility for unemployment insurance benefits for any week claimed, the claimant shall be afforded the opportunity to present facts and evidence, which may include an informational fact-finding interview scheduled by the department. The unemployment insurance representative may afford the employer the opportunity to present additional facts and evidence after ascertaining such from the claimant. If the employer is afforded such an opportunity to provide additional facts and evidence, the unemployment insurance representative shall also afford the claimant the opportunity to present additional facts and evidence.

*b.* ~~The representative shall compare the amount of vacation reported by the employer with the computer record. If the computer record shows any discrepancies, the representative shall initiate immediate action to set up an overpayment or underpayment as appropriate. After affording the claimant an opportunity to present facts and evidence regarding the receipt of vacation pay, and potentially affording the employer and the claimant an opportunity to provide additional facts and evidence, the representative shall consider all information submitted by the interested parties and issue to the employer and the claimant the appropriate decision concerning the vacation pay. The~~

unemployment insurance representative shall then check the current status of the claim on the computer record to ascertain if any weeks have been reported.

c. If the computer record shows that the claimant has not reported or claimed for some or all of the weeks indicated for the vacation period, the unemployment insurance representative shall take no further action on the weeks not claimed.

d. The claimant shall be instructed to only report vacation pay applicable to the first week. The claimant shall also be instructed that vacation pay designated by the employer in excess of one week may result in an overpayment of benefits.

ITEM 9. Amend subrule 24.19(2) as follows:

**24.19(2)** Each interested party will be afforded the opportunity to have ~~an in-person~~ a fact-finding interview by telephone regarding matters which are scheduled for a hearing. ~~However, when it is impractical for the department to conduct an in-person fact-finding, the fact-finding may be conducted in whole or in part by telephone at the discretion of the department.~~ An interested party may request an in-person fact-finding interview as a reasonable accommodation under the federal Americans with Disabilities Act of 1990, as amended, or the Iowa Civil Rights Act of 1965, as amended. The department shall reserve the right to call any interested party in for an in-person fact-finding interview.

ITEM 10. Amend subrule 24.35(3) as follows:

**24.35(3)** Delivery by mail. Any notice, report form, determination, decision, or other document mailed by the division shall be considered as having been given to the addressee to whom it is directed on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

ITEM 11. Adopt the following **new** subrule 24.35(4):

**24.35(4)** Electronic delivery. Any notice, report form, determination, decision, or other document sent by the division via the U.S. Department of Labor state information data exchange system shall be considered as having been given to the party to whom it is directed on the date it is submitted on the system. The date submitted shall be presumed to be the date of the document, unless otherwise indicated by the facts.

ITEM 12. Amend paragraph **25.7(6)“c”** as follows:

c. If a claimant fails to respond to the first statement of overpayment a second statement shall be sent 30 days later. The second statement notifies the claimant that full repayment must be made. If the claimant cannot make full repayment the department will consider a monthly repayment agreement. Monthly amounts based on the minimum repayment agreement schedule below will be printed on the second billing. The first repayment is expected 10 days from the date of the second repayment statement and the additional repayments every 30 days thereafter until the debt is paid in full. The department reserves the right to accept or reject any proposed repayment agreement. The following minimum repayment agreement is acceptable by the department.

Amount of Original Overpayment	Minimum Monthly Payments	Number of Months Required to Liquidate the Overpayment
Under \$199	\$ 25	1 to 8
\$200 to \$399	\$ 40 <u>50</u>	5 to 10
\$400 to \$599	\$ 50 <u>75</u>	8 to 12
\$600 to \$799	\$ 65 <u>90</u>	9 to 13
\$800 to \$999	\$ 80 <u>100</u>	10 to 13
\$1000 to \$1499	\$ 90 <u>150</u>	11 to 17
\$1500 to \$1999	\$100 <u>200</u>	15 to 20
\$2000 to \$2999	\$140 <u>250</u>	18 to 28
\$3000 and over	\$130 <u>300</u>	23 to —